



General Assembly

Substitute Bill No. 482

February Session, 2000

An Act Concerning Cooperative Health Care Arrangements.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 (NEW) (a) As used in this section:

2 (1) "Cooperative arrangement" means an agreement among two or
3 more health care providers for the purpose of providing health care
4 services, including, but not limited to, negotiating fees, prices or rates,
5 sharing, allocation or referral of patients, personnel, instructional
6 programs, support services and facilities or medical, diagnostic or
7 laboratory facilities or procedures, and includes a merger, acquisition
8 or joint venture of two or more health care providers, including
9 physician practice groups;

10 (2) "Health care provider" means a state licensed or certified person
11 or facility that delivers any health care service, including any person
12 licensed to practice pharmacy under the provisions of chapter 400j of
13 the general statutes;

14 (3) "Certificate of public advantage" means a certificate issued by the
15 Attorney General authorizing health care providers that are parties to
16 a cooperative arrangement to engage in conduct that could tend to
17 lessen competition in a relevant health care market, upon a showing
18 that such cooperative arrangement meets the criteria set forth in
19 subdivision (2) of subsection (c) of this section; and

20 (4) "Attorney General" means the Attorney General of the state of
21 Connecticut.

22 (b) Any two or more health care providers may apply to the
23 Attorney General for a certificate of public advantage to authorize a
24 cooperative arrangement. The application shall include (1) the name of
25 the applicant or applicants, (2) a description of the nature and scope of
26 the cooperative arrangement, (3) any consideration passing to any
27 party under the agreement, and (4) evidence in support of the criteria
28 described in subdivision (2) of subsection (c) of this section. Each
29 application shall be accompanied by a fee of one hundred dollars. Any
30 information of a proprietary nature submitted in such application that
31 meets the standards set forth in subdivision (5), (8) or (10) of
32 subsection (b) of section 1-210 of the general statutes, as amended by
33 section 1 of public act 99-156, shall be deemed confidential and exempt
34 from public disclosure.

35 (c) (1) The Attorney General shall review each application submitted
36 pursuant to subsection (b) of this section and not later than ninety days
37 following receipt of such application issue a written decision
38 approving or denying the application. The decision shall set forth the
39 Attorney General's findings with regard to the benefits and
40 disadvantages set forth in subdivision (2) of this subsection and a
41 conclusion as to whether the benefits outweigh the disadvantages to
42 the people of this state. The Attorney General may conduct a hearing
43 to obtain information necessary in making such decision.

44 (2) In authorizing a cooperative arrangement under this section, the
45 Attorney General may consider the criteria established in subsection
46 (a) of section 19a-637 of the general statutes that the Attorney General
47 deems relevant to the application for a certificate of public advantage
48 and any benefits of such cooperative arrangement in furthering the
49 goals of health care reform including, but not limited to: (A)
50 Enhancement of the quality of health services to consumers; (B) gains
51 in cost efficiency of health services; (C) improvement in utilization of
52 and access to health services and equipment; and (D) avoidance of

53 duplication of health care resources. The benefits considered by the
54 Attorney General shall outweigh disadvantages including, but not
55 limited to: (i) The potential reduction of competition; (ii) the adverse
56 impact on quality, access or price of health care services to consumers;
57 and (iii) the availability of arrangements to achieve the same benefits
58 that are less restrictive of competition.

59 (3) Cooperative arrangements authorized by the Attorney General
60 in a certificate of public advantage issued pursuant to this section shall
61 be deemed to be conduct taken pursuant to the provisions of the
62 general statutes and in furtherance of the public purposes of this state
63 and are not subject to the provisions of chapter 624 of the general
64 statutes, except that the Attorney General may utilize the powers set
65 forth in section 35-42 of the general statutes. This section shall not be
66 construed to require any health care provider to obtain a certificate of
67 public advantage in order to enter into a cooperative arrangement, and
68 absent approval of such cooperative arrangement by the Attorney
69 General, the legality of such cooperative arrangement shall be
70 determined by applicable antitrust law.

71 (4) Health care providers in a cooperative arrangement authorized
72 pursuant to this section shall submit an annual report accompanied by
73 a fee of one hundred dollars to the Attorney General.

74 (5) The Attorney General shall actively supervise the cooperative
75 arrangements authorized pursuant to this section to determine
76 whether the conduct should continue to be authorized. The Attorney
77 General shall review the conduct through annual progress reports
78 submitted by the health care providers in a cooperative arrangement in
79 accordance with subdivision (4) of this subsection to evaluate whether
80 the conduct is consistent with the application and whether the benefits
81 continue to outweigh the disadvantages. If the Attorney General has
82 reason to believe that the likely benefits no longer outweigh the
83 disadvantages, the Attorney General shall notify the holder of the
84 certificate and hold a hearing to determine whether such certificate
85 should be modified or revoked. Such modification or revocation shall

86 take effect ninety days from the receipt of notice of a final decision by
87 the Attorney General. The Attorney General shall not modify or revoke
88 a certificate of public advantage more than three years after the initial
89 issuance of such certificate.

90 (d) Any person denied a certificate of public advantage by the
91 Attorney General pursuant to this section and any holder of a
92 certificate of public advantage that has been modified or revoked by
93 the Attorney General pursuant to subdivision (5) of subsection (c) of
94 this section may appeal therefrom as if such denial, modification or
95 revocation were a contested case within the meaning of chapter 54 of
96 the general statutes.

97 (e) No managed care organization, as defined in subdivision (2) of
98 section 38a-478 of the general statutes, shall refuse to negotiate in good
99 faith with parties to a cooperative arrangement authorized by the
100 Attorney General. Any managed care organization that violates this
101 section shall be subject to a civil penalty of not more than twenty-five
102 thousand dollars per day, for each violation. The Attorney General
103 may institute proceedings to enforce the provisions of this section in
104 the superior court for the judicial district of Hartford.

105 (f) A violation of subsection (e) of this section shall constitute a
106 violation of chapter 735a of the general statutes.

Statement of Legislative Commissioners:

In the first sentence of subsection (b), the phrase "activities as described in" was deleted for clarity. In the first sentence of subsection (e), the words "parties to" were inserted before "a cooperative arrangement" for clarity.

LAB Committee Vote: Yea 12 Nay 1 JFS